

City Council of the Mayor and Council of New Castle
Special Meeting: Town Hall – 201 Delaware Street – New Castle
Thursday – February 3, 2011 – 6:00 p.m.

Present:

Council President William Barthel
Councilperson John Cochran
Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: Treasurer Janet Carlin, City Administrator Cathryn Thomas, Interim City Solicitor Daniel Losco

New Business:

Interview Daniel Losco for City Solicitor position

President Barthel read that under new business City Council has noticed and scheduled an open public interview with Interim City Solicitor Daniel R. Losco so as to permit Council to question him as to his qualifications for the City Solicitor position. He was originally interviewed on Dec. 29, 2010, along with two other candidates and was later advised he had been selected. The other candidates were informed they were not selected. Subsequently Mayor Jack Klingmeyer filed a FOIA complaint with the Attorney General's office complaining about a proceeding that took place at a Dec. 14, 2010, executive session of Council, where resumes of candidates were made available to Council and the interview process was mentioned. Council has responded to the complaint and awaits a decision from the Attorney General's office. Council fully supports the policy considerations behind FOIA and further wants there to be no question of its desire to govern in an open and public manner. Without conceding any wrongdoing, Council has already taken steps to revisit the entire City Solicitor selection process via open public meeting.

President Barthel added that on Jan. 27, 2011, Council held a properly noticed special meeting at which time the same matters addressed at the Dec. 14, 2010, executive session were revisited. No members of the general public attended other than a *News Journal* reporter and Mayor Klingmeyer. Solicitor candidate resumes were again handed out to Council members who were queried as to any questions or comments. Comments from the floor were solicited. To provide additional time for the general public to consider these matters, Council decided to wait until this meeting to conduct an open interview of Mr. Losco.

President Barthel added Council has decided not to re-interview the other two candidates, recognizing that to ask them to publicly re-interview for a position they have been told they would not get, would be insulting to them personally and professionally.

President Barthel said he did receive a letter from the Mayor late this afternoon asking him to read it into the record. The meeting has Comments from the Floor and if the Mayor was that interested in the proceedings he would be welcome to attend the meeting and read the letter himself. (Mayor Klingmeyer was not present at this point but arrived later in the meeting.)

Council began interviewing Mr. Losco.

Councilperson Gaworski asked Mr. Losco to describe the most relevant experience he has for him to succeed as the new City Solicitor.

Mr. Losco said the most relevant experience is having been City Solicitor in Delaware City for the past 10 years. That gives him a good background on what to expect in New Castle, including drafting ordinances, contract negotiation, litigation matters and related matters.

Councilperson Cochran said it is ridiculous to do the interview again.

President Barthel said it is important to go through the interview for the record, to make sure everything discussed in that session is held in a public manner.

Councilperson Petty asked what Mr. Losco expects to be the top three areas that he would provide the City with legal advice about.

Mr. Losco said the City Council will see real estate matters, zoning matters, zoning ordinances, interpretation of enforcement will be the primary areas. That will mean working with code enforcement officials and assisting Council in drafting of ordinances. Also, he said he plans to assist in the interpretation of the comprehensive plan. In his private practice, real estate is predominately what he does. Second, personnel-related matters. His experience in this area dates back to his pre-law days. The third area would be administrative matters, ordinances not necessarily dealing with real estate.

Councilperson Petty asked how Mr. Losco is addressing items having to do with the FOIA law?

Mr. Losco said the FOIA law is not an extremely long law—four or five pages. He has had experience with it in private practice and as City Solicitor in Delaware City. He said the reason this interview is being done in public is because it was his opinion that as a non-employee, along the lines of an independent contractor, it should be done in an open meeting.

President Barthel asked what is the most controversial matter that he has handled related to local government and how did it turn out?

Mr. Losco said the freshest in his mind is the election dispute in Delaware City. He told of his efforts after the election for one Council seat which ended in a tie, which is not addressed in that city's charter. The success he pointed to was without blowing a lot of City money, tax dollars, he negotiated an arrangement with the Attorney General's office for a solution.

Councilperson Cochran said he waived his right to ask a question of Mr. Losco.

Councilperson Megginson asked Mr. Losco what attracts you specifically to the City Solicitor position in New Castle.

Mr. Losco said likes the interaction with local government and expanding that to another municipality is attractive to him. In addition, the City of New Castle itself, it is the premier historic city in Delaware. The position combines his interest in municipal law, history and real estate. Former Solicitor Roger Akin also highly recommended the people and the City.

Mayor Klingmeyer arrived at the meeting.

President Barthel asked what Mr. Losco would leave the Council with as a final statement on why he should be selected for the position.

Mr. Losco said he has the experience. He is both a transactional lawyer and has a long history of being a litigator, including civil rights work. In addition, he has experience in municipal government.

President Barthel said has had the opportunity to work with Mr. Losco as Interim City Solicitor. He has been very responsive and very aggressive in terms of responding back to the City, anticipating officials' needs.

Councilperson Megginson made a motion to approve resolution No. 2011-4, a Resolution Appointing a City Solicitor. Councilperson Cochran seconded the motion. The motion passed unanimously.

Mayor Klingmeyer asked if Council received his memo.

President Barthel said he did receive it and offered Mayor Klingmeyer the opportunity to present the memo at the meeting. Mayor Klingmeyer declined.

Councilperson Megginson made a motion to adjourn the meeting. Councilperson Cochran seconded the motion. The motion passed unanimously.

The meeting adjourned at 6:19 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk